

AMENDMENT #2 to the
New Hampshire Aquatic Resource Mitigation Fund
In-Lieu Fee Program Instrument

WHEREAS, the approved New Hampshire Aquatic Resource Mitigation (hereinafter "ARM") Fund Final In-lieu Fee Program Instrument (hereinafter "Instrument"), was signed by the New Hampshire Department of Environmental Services (hereinafter "NHDES") Commissioner on May 17, 2012 and signed by the New England District Corps of Engineers (hereinafter "Corps"), District Engineer on May 8, 2012. Amendment #1 was signed by NHDES on May 31, 2017 and the Corps on June 8, 2017.

NOW THEREFORE, the following changes shall be made to Section IX of the Instrument with deletions indicated with strike-outs and additions in bold:


Section IX "Provision of Legal Responsibility"

Corps approval of this Instrument constitutes the regulatory approval required for the State of New Hampshire— In Lieu Fee Program to be used to provide compensatory mitigation for Department of the Army permits pursuant to 33 C.F.R. 332.8(a)(1). This Instrument is not a contract between the State and the Corps or any other agency of the federal government. Any dispute arising under this Instrument will not give rise to any claim ~~for monetary damages by the Corps or the State against the other~~ for **monetary damages**. This provision is controlling notwithstanding any other provision or statement in the Instrument to the contrary.

IN WITNESS WHEREOF, the undersigned have caused this amendment to be duly executed.



Date: 20 DEC 2018
Robert R. Scott
Commissioner
New Hampshire Department of Environmental Services



Date: 30 Oct 2018
Jennifer L. McCarthy
Chief, Regulatory Division
New England District Corps of Engineers

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